

# State of Wisconsin



1997 Senate Bill 324

Date of enactment: **December 15, 1997**

Date of publication\*: **January 2, 1998**

## 1997 WISCONSIN ACT 49

**AN ACT** *to renumber* 459.26 (2); *to renumber and amend* 459.20 (2); *to amend* 459.02, 459.03 (1), 459.09, 459.22 (2) (b), 459.24 (2) (e), 459.24 (3) (e), 459.24 (5), 459.24 (6) (a), 459.24 (6) (b), 459.24 (6) (c), 459.32 (3) and 459.34 (2m) (c); and *to create* 459.095, 459.20 (2) (b), 459.20 (3g), 459.20 (3p), 459.20 (3t), 459.24 (3) (em), 459.24 (3m), 459.24 (5m), 459.26 (2) (b) and (c) and 459.34 (2) (ce), (cm) and (cs) of the statutes; **relating to:** allowing audiologists to engage in the practice of fitting and selling hearing aids without obtaining a hearing instrument specialist license, continuing education for hearing instrument specialists, audiologists and speech-language pathologists and granting rule-making authority.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

**SECTION 1.** 459.02 of the statutes is amended to read:

**459.02 License required to sell and fit hearing aids.** (1) No person may engage in the practice of selling or fitting hearing aids or display a sign or in any other way advertise or represent himself or herself as a person who practices the fitting or sale of hearing aids unless he or she holds a valid license issued under this subchapter or a valid license or permit to practice audiology issued under subch. II. The license required by s. 459.05 shall be conspicuously posted in his or her office or place of business as registered with the department at all times. Duplicate licenses shall be issued by the department under this subchapter to valid license holders operating more than one office without additional payment.

(2) Nothing in this subchapter or subch. II shall prohibit any corporation or mercantile establishment which maintains an established business address from engaging in the business of selling or offering for sale hearing aids at retail without a license, provided that for the purpose of selling and fitting hearing aids it employs persons li-

censed under this subchapter or persons issued licenses or permits to practice audiology under subch. II. Such corporation or mercantile establishment shall annually file with the examining board a list of all persons employed for the purpose of selling and fitting hearing aids.

**SECTION 2.** 459.03 (1) of the statutes is amended to read:

459.03 (1) Whoever practices fitting or sale selling of hearing aids under this subchapter shall deliver to each person supplied with a hearing aid a receipt. The receipt shall contain the licensee's signature and show the licensee's business address and certificate number, together with specifications as to the make and model of the hearing aid furnished and full terms of sale clearly stated. If a hearing aid which is not new is sold, the receipt and the container thereof must be clearly marked as "used" or "reconditioned" whichever is applicable.

**SECTION 3.** 459.09 of the statutes is amended to read:

**459.09 (title) Renewal of license; fees; effect of failure to renew.** Each person who practices dealing in or fitting hearing aids issued a license under this subchapter shall, on or before the applicable renewal date

\* Section 991.11, WISCONSIN STATUTES 1995-96: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

specified under s. 440.08 (2) (a), pay to the department the applicable renewal fee specified under s. 440.08 (2) (a) and submit with the renewal application proof that he or she completed, within the 2 years immediately preceding the date of his or her application, 20 hours of continuing education programs or courses of study approved or required under rules promulgated under s. 459.095. A licensee shall keep the certificate conspicuously posted in the person's his or her office or place of business at all times. Where more than one office is operated by the licensee, duplicate certificates shall be issued by the department for posting in each location.

**SECTION 4.** 459.095 of the statutes is created to read:

**459.095 Continuing education.** The examining board shall do all of the following:

(1) Promulgate rules establishing the criteria for approval of continuing education programs or courses of study required for renewal of a license under s. 459.09 and for approval of the sponsors and cosponsors of continuing education programs or courses of study.

(2) Approve continuing education programs and courses of study in accordance with the criteria established under sub. (1).

(3) In consultation with the department, promulgate rules that require each person issued a license under this subchapter to complete a specified continuing education program or course of study to ensure competence with respect to a matter related to the practice of fitting and dealing in hearing aids if the examining board has received a significant number of consumer complaints about the matter or if the examining board otherwise determines that there is a need for such a requirement. Rules promulgated under this subsection shall establish criteria for the examining board's approval of the continuing education program or course of study and of sponsors and cosponsors of the continuing education program or course of study. The rules shall also require the examining board to administer, prior to the continuing education program or course of study, an examination on the matter that is the subject of the continuing education program or course of study and to waive a requirement to complete the continuing education program or course of study if a person granted a license under this subchapter passes the examination. A person who takes an examination specified in this subsection shall pay the fee specified in s. 440.05 (1) (b).

**SECTION 5.** 459.20 (2) of the statutes is renumbered 459.20 (2) (intro.) and amended to read:

459.20 (2) (intro) "Audiology" means applying all of the following:

(a) Applying principles, methods or procedures of prevention, identification, evaluation, consultation, intervention, instruction or research related to hearing, vestibular function, or any abnormal condition related to tinnitus, auditory sensitivity, acuity, function or processing,

speech, language or other aberrant behavior resulting from hearing loss.

**SECTION 6.** 459.20 (2) (b) of the statutes is created to read:

459.20 (2) (b) Engaging in the practice of fitting and dealing in hearing aids.

**SECTION 7.** 459.20 (3g) of the statutes is created to read:

459.20 (3g) "Hearing aid" means any wearable or implantable instrument or device designed for or offered for the purpose of aiding or compensating for impaired human hearing and any parts, attachments or accessories of such an instrument or device, except batteries and cords.

**SECTION 8.** 459.20 (3p) of the statutes is created to read:

459.20 (3p) "Practice of fitting and dealing in hearing aids" means the measurement of human hearing by means of an audiometer or by any other means accepted by the examining board for the purpose of making selections, adaptations or sales of hearing aids intended to compensate for impaired hearing, and includes making impressions for ear molds.

**SECTION 9.** 459.20 (3t) of the statutes is created to read:

459.20 (3t) "Sell" or "sale" means a transfer for a consideration of title or of the right to use.

**SECTION 10.** 459.22 (2) (b) of the statutes is amended to read:

459.22 (2) (b) ~~Authorize an individual a~~ speech-language pathologist licensed under this subchapter to dispense or sell hearing aids without obtaining a hearing instrument specialist license under subch. I.

**SECTION 11.** 459.24 (2) (e) of the statutes is amended to read:

459.24 (2) (e) Submits evidence satisfactory to the examining board that he or she has passed the examination required for certification as a speech-language pathologist by the American speech-language-hearing association or passes an examination under s. 459.26 (2) (a) to determine fitness as a speech-language pathologist or has completed education or training that the examining board determines is substantially equivalent to passing one of those examinations in determining fitness as a speech-language pathologist.

**SECTION 12.** 459.24 (3) (e) of the statutes is amended to read:

459.24 (3) (e) Submits evidence satisfactory to the examining board that he or she has passed the examination required for certification as an audiologist by the American speech-language-hearing association or passes an examination under s. 459.26 (2) (a) to determine fitness as an audiologist, or has completed education or training that the examining board determines is

substantially equivalent to passing one of those examinations in determining fitness as an audiologist.

**SECTION 13.** 459.24 (3) (em) of the statutes is created to read:

459.24 (3) (em) Passes an examination under s. 459.26 (2) (b).

**SECTION 14.** 459.24 (3m) of the statutes is created to read:

459.24 (3m) FITTING AND SALE OF HEARING AIDS. An audiologist licensed under this subchapter or an individual granted a permit to practice audiology under this subchapter who engages in the practice of fitting and dealing in hearing aids shall do all of the following:

(a) Deliver to each person supplied with a hearing aid a receipt. The receipt shall contain the signature and show the business address and certificate number of the licensee or permittee, together with specifications as to the make and model of the hearing aid and full terms of sale clearly stated. If a hearing aid that is not new is sold, the receipt and the container must be clearly marked as “used” or “reconditioned”, whichever is applicable. The terms of the guarantee, if there is any given, shall be set out in not less than 8–point type.

(b) Give to a purchaser of a hearing aid a personal guarantee that is at least identical in its terms to the guarantee given by the manufacturer of the hearing aid.

**SECTION 15.** 459.24 (5) of the statutes is amended to read:

459.24 (5) EXPIRATION AND RENEWAL. The renewal dates for licenses granted under this subchapter, other than temporary licenses granted under sub. (6), are specified in s. 440.08 (2) (a). Renewal applications shall be submitted to the department on a form provided by the department and shall include the renewal fee specified in s. 440.08 (2) (a) and proof that the applicant completed, within the 2 years immediately preceding the date of his or her application, 20 hours of continuing education programs or courses of study approved or required under rules promulgated under sub. (5m).

**SECTION 16.** 459.24 (5m) of the statutes is created to read:

459.24 (5m) CONTINUING EDUCATION. (a) The examining board shall do all of the following:

1. Promulgate rules establishing the criteria for approval of continuing education programs or courses of study required for renewal of a license under sub. (5) and the criteria for approval of the sponsors and cosponsors of continuing education programs or courses of study.

2. Approve continuing education programs and courses of study in accordance with the criteria established under subd. 1.

3. In consultation with the department, promulgate rules that do each of the following:

a. Require each person granted a speech–language pathologist license to complete a specified continuing education program or course of study to ensure compe-

tence with respect to a matter related to the practice of speech–language pathology if the examining board has received a significant number of consumer complaints about the matter or if the examining board otherwise determines there is a need for such a requirement.

b. Require each person granted an audiologist license to complete a specified continuing education program or course of study to ensure competence with respect to a matter related to the practice of audiology if the examining board has received a significant number of consumer complaints about the matter or if the examining board determines there is a need for such a requirement.

(b) Rules promulgated under par. (a) 3. shall establish criteria for the examining board’s approval of the specified continuing education program or course of study and of sponsors and cosponsors of the continuing education program or course of study. The rules shall also require the examining board to administer, prior to the continuing education program or course of study, an examination on the matter that is the subject of the continuing education program or course of study and to waive a requirement to complete the continuing education program or course of study if a person granted a license under this subchapter passes the examination. A person who takes an examination specified in this paragraph shall pay the fee specified in s. 440.05 (1) (b).

**SECTION 17.** 459.24 (6) (a) of the statutes is amended to read:

459.24 (6) (a) Upon application, the examining board may grant a temporary license to practice speech–language pathology during the completion of the postgraduate fellowship required under sub. (2) (f) if the applicant practices under the supervision of a speech–language pathologist licensed under sub. (2), satisfies the requirements under sub. (2) (a) to (d) and has submitted an application to take the next available examination for licensure as a speech–language pathologist under s. 459.26 (2) (a).

**SECTION 18.** 459.24 (6) (b) of the statutes is amended to read:

459.24 (6) (b) Upon application, the examining board may grant a temporary license to practice audiology during the completion of the postgraduate fellowship required under sub. (3) (f) if the applicant practices under the supervision of an audiologist licensed under sub. (3), satisfies the requirements under sub. (3) (a) to (d) and has submitted an application to take the next available examination examinations for licensure as an audiologist under s. 459.26 (2) (a) and (b).

**SECTION 19.** 459.24 (6) (c) of the statutes is amended to read:

459.24 (6) (c) A temporary license granted under this subsection is valid for a period designated by the examining board, not to exceed 9 months, and, A temporary license granted under par. (a) may be renewed once by the examining board. A temporary license granted under par.

(b) may be renewed once by the examining board if the applicant fails an examination for audiologist licensure under s. 459.26 (2) (a) or (b) and applies to take the next available examination or if the applicant shows, to the satisfaction of the examining board, sufficient cause for the renewal. An applicant for a temporary license shall pay the fee specified in s. 440.05 (6).

**SECTION 20.** 459.26 (2) of the statutes is renumbered 459.26 (2) (a).

**SECTION 21.** 459.26 (2) (b) and (c) of the statutes are created to read:

459.26 (2) (b) An applicant for an audiologist license shall also complete an examination administered by the examining board that consists of practical tests of proficiency in techniques that pertain to the fitting of hearing aids, including the following:

1. Pure tone audiometry, including air conduction testing and bone conduction testing.
2. Live voice or recorded voice speech audiometry including speech reception threshold testing and most comfortable loudness measurements and measurements of tolerance thresholds.
3. Masking when indicated.
4. Recording and evaluation of audiograms and speech audiometry to determine proper selection and adaption of a hearing aid.
5. Taking ear mold impressions.

(c) The examining board may waive the requirement to complete the examination specified in par. (b) if it determines that an applicant for an audiologist license has completed education or training that is substantially equivalent to completing the examination.

**SECTION 22.** 459.32 (3) of the statutes is amended to read:

459.32 (3) An applicant for a limited permit under sub. (1) or (2) shall pay the fee specified in s. 440.05 (6) and, if applicable, an applicant for a limited permit under sub. (2) shall also pay the fee specified in s. 440.05 (1) (b).

**SECTION 23.** 459.34 (2) (ce), (cm) and (cs) of the statutes are created to read:

459.34 (2) (ce) Violated any federal or state statute, rule or regulation that relates to the practice of fitting and dealing in hearing aids. This paragraph does not apply to speech–language pathologists.

(cm) Failed to conduct a direct observation of the ear canal of a purchaser of a hearing aid. This paragraph does not apply to speech–language pathologists.

(cs) Sold a hearing aid to a person who was not given tests using appropriate procedures and instrumentation or without proper measurement of the functional intensity and range of the person’s hearing. This paragraph does not apply to speech–language pathologists.

**SECTION 24.** 459.34 (2m) (c) of the statutes is amended to read:

459.34 (2m) (c) The examining board may, as a condition of reinstating a license that has been suspended under this subchapter, require the license holder to pass the an examination required for initial licensure under s. 459.26 (2).

**SECTION 25. Nonstatutory provisions.**

(1) PROFICIENCY TESTS FOR FITTING AND DEALING IN HEARING AIDS.

(a) The department of regulation and licensing shall deny an application to renew an audiologist license that expires on February 1, 1999, and that is submitted by an applicant who does not hold a valid license issued under section 459.05 of the statutes unless he or she submits proof that he or she completed the examination, administered by the hearing and speech examining board, specified in section 459.26 (2) (b) of the statutes, as created by this act, or that he or she has completed education or training that, to the satisfaction of the hearing and speech examining board, is substantially equivalent to this requirement. An applicant may not take the examination unless he or she pays the fee specified in section 440.05 (1) (b) of the statutes. Notwithstanding sections 440.08 (2) (c) and 459.24 (5) of the statutes, the fee shall be in addition to any renewal fee required under section 440.08 (2) (a) 15. of the statutes.

(b) The hearing and speech examining board shall administer the examination specified in paragraph (a) in a manner that ensures, to the maximum extent practicable, that each person granted an audiologist license that expires on February 1, 1999, has an opportunity to take the examination and is notified of the results before February 1, 1999.

(2) CONTINUING EDUCATION. Notwithstanding sections 459.09 and 459.24 (5) of the statutes, as affected by this act, the requirement to submit proof of completion of continuing education programs or courses of study does not apply to an applicant for renewal of a license issued or granted under subchapter I or II of chapter 459 of the statutes that expires on February 1, 1999.

**SECTION 26. Initial applicability.**

(1) This act first applies to applications for initial licenses or permits issued or granted under subchapter I or II of chapter 459 of the statutes, as affected by this act, that are received by the department of regulation and licensing or the hearing and speech examining board on the effective date of this subsection.

**SECTION 27. Effective dates.** This act takes effect on the first day of the 6th month beginning after publication, except as follows:

(1) SECTION 25 (1) of this act takes effect on the day after publication.